



05-CV-00199-CMP

FILED
LOGGED
RECEIVED

MAIL

APR 18 2005

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Mark Swanson
(Name of Plaintiff)

vs.

Officer Young, Off.
Harvey, Off. Fowler,
Off. Brown, Off. Smith
Sgt. Lolly John Doe
(Names of Defendants)

Complaint
No: C05-0199RSL

CIVIL RIGHTS COMPLAINT
BY A PRISONER UNDER 42
U.S.C. § 1983

JURY TRIAL
DEMANDED

I. Previous Lawsuits:

A. Have you brought any other lawsuits in any federal court in the United States while a prisoner:

☐ Yes ☐ No

B. If your answer to A is yes, how many?: _____ Describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.)

1. Parties to this previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (give name of District) _____

3. Docket Number _____

4. Name of judge to whom case was assigned _____

5. Disposition (For example: Was the case dismissed as frivolous or for failure to state a claim? Was it appealed? Is it still pending?) _____

6. Approximate date of filing lawsuit _____

7. Approximate date of disposition _____

II. Place of Present Confinement: _____

A. Is there a prisoner grievance procedure available at this institution? ☒ Yes ☐ No

B. Have you filed any grievances concerning the facts relating to this complaint?

☒ Yes ☐ No

If your answer is NO, explain why not _____

C. Is the grievance process completed?

☒ Yes ☐ No

If your answer is YES, ATTACH A COPY OF THE FINAL GRIEVANCE RESOLUTION for any grievance concerning facts relating to this case.

III. Parties to this Complaint

A. Name of Plaintiff: Mark K Swanson Inmate No.: 204028089

Address: 620 W JAMES ST KENT WA 98032

(In Item B below, place the full name of the defendant, his/her official position, and his/her place of employment. Use item C for the names, positions and places of employment of any additional defendants. Attach additional sheets if necessary.)

B. Defendant KCCF; official position Jail
place of employment Regional Justice Center

C. Additional defendants Officer Kitzner, Officer Harvey
Officer Brown, Sergeant Lally, Officer Smith
Captain Herring, Det. Davidson (DIA)

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates, places, and other persons involved. Do not give any legal arguments or cite any cases or statutes. If you allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets if necessary.)

This is a civil rights action filed by Mark Swanson, a County Prisoner for
Damages and Relief under 42 USC 1983, alleging
that the Plaintiff was denied reasonably
adequate medical care, adequate medical
services at a level with modern science and
of a quality acceptable within prudent and
professional standards in violation of the Eighth
Amendment to the United States Constitution and
confinement in segregation in violation of the
due process clause of the Fourteenth Amendment
to the Constitution. The Plaintiff also alleges
negligence.

Jurisdiction

- ① The Court has jurisdiction over the Plaintiff's
claim of violation of federal constitutional rights
under 42 USC § 1331(a) and 1343
- ② The Court has supplemental jurisdiction over
the Plaintiff's state law tort claims under
28 USC § 1367

Parties

The Plaintiff Mark Swanson was incarcerated
at the Regional Justice Center during the
events described in this complaint.

① Defendants Off. Young, Off. Harvey, Off. Fowler, Off. Smith, and Off. John Doe are correctional officers employed at the Regional Justice Center. They are sued in their individual capacities.

② Defendant John Doe, Medical Staff employed at the Regional Justice Center whose name is presently unknown to the plaintiff. He is sued in his individual capacity.

③ Defendant John Doe Medical Staff employed at the Regional Justice Center whose name is presently unknown to the plaintiff. He is sued in his own capacity.

④ Defendant Sgt Lolly who is the Sergeant at the Regional Justice Center that is in charge of the Segregation unit. He is sued in his individual capacity.

⑤ Defendant Classification Officer Kinner employed at the Regional Justice Center whose in charge

of the segregation unit. He is
sued in his individual capacity.

⑥ Defendant Nanson is the Medical Administrator at the Regional Justice Center and is generally responsible for ensuring the provision of medical care to prisoners and specifically scheduling medical appointments outside the jail when a prisoner needs specialized treatment or evaluation. She is sued in his individual capacities and official capacities.

⑦ Defendant Harding is the captain of the Regional Justice Center who is in charge of the actual administration at the Regional Justice Center and is in charge of transportation of prisoners to medical appointments. He is sued in his individual capacities and official capacities.

⑧ All the defendants have acted and continue to act under color of law at all times relevant

to this complaint

Facts

On July 15 2004 I was arrested and in lieu of an injury I was then transported to St Francis Hospital for treatment of a broken right wrist. At the Hospital I was told to see a specialist within 3 days due to the severity of the injury. Upon arrival to the Regional Justice Center I immediately contacted officer Fowler and tried to explain that I had a medical emergency and I need to see a doctor. He denied me this. The following officers Smith, Young, Harvey, Brown, and John Doe follow multiple shifts neglected to investigate the seriousness of my claim and in doing so inflicted unnecessary pain and suffering and a refusal to assist getting medical treatment within the time frame that would outright constitute as a medical emergency. On two other

I DEMANDED to be SEEN and the
sluff Sergeant lobby, only then
CONFISCATED my clothing, BEDDING
and Toilet Paper as a CONSEQUENCE
FOR ASKING FOR HELP. I WAS EVEN
THREATENED to be PEPPER SPRAYED
DURING my CRIES FOR ASSISTANCE.
NUMEROUS TIMES I pushed the
button located in my cell that is
DESIGNED FOR MEDICAL EMERGENCIES
AND WAS IGNORED (which DENIED ME
ACCESS TO MEDICAL CARE). I REPEATEDLY
ASKED FOR MEDICAL ASSISTANCE ON AN
AVERAGE OF TEN TIMES A DAY FOR
AT LEAST FOURTEEN DAYS UNTIL I WAS
FINALLY SEEN and THEN my hand was
PLACED INTO a cast WITHOUT BEING
PROPERLY SET FOURTEEN DAYS AFTER
THE INCIDENT WHICH WAS JULY 29,
2004. DUE TO THE FACT I WAS
IGNORED FOR SUCH AN EXTENSIVE
AMOUNT OF TIME THAT NOW SINCE
THIS HAS HAPPENED I HAVE LOST
ROUGHLY 40 PERCENT OF THE SCOPE
MOVEMENT OF MY DOMINANT HAND
WHICH NOW PARTIALLY HANDICAPS ME.

ON AUGUST 19, 2004 I WAS
BROUGHT TO HARBOURVIEW MEDICAL

CENTER to be X-RAYED AGAIN. While talking to the physician about my latest X-RAY, I was informed that due to the amount of time that had elapsed and how my wrist was not set by the jail prior to putting on my first cast that in all reality the DAMAGE was already been done due to PREVIOUS NEGLECT. Harborview Medical CENTER went ahead and RECASTED my hand with a proper cast. The technician through conversation informed me that since my wrist was neglected for such an EXTENSIVE PERIOD of time that it had already STARTED the healing process and the incorrectly forming bones. I asked if I could get it RESET and was informed that the only way my wrist would EVER be close to the same would be through NUMEROUS SURGERIES and they would have to RE-BREAK it and RESET it in EVERY MISALIGNED SPOT.

Throughout this time period I went through all the proper steps in the GRIEVANCE PROCESS to no avail. Just like my pleas for medical assistance, this was IGNORED also and or brushed off. The neglect was so EXTREME that all of the LISTED DEFENDANTS are EQUALLY RESPONSIBLE in their own capacity as well as their official capacity.

Claims of Relief

① The actions of Defendants Young, Brown, Harvey, Fowler, Smith and Doe were malicious in nature and their obvious neglect is constituted as cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution

② The actions of Defendant Lolly and Kitter in using a DEPRIVATION OF NECESSITIES that is constituted CRUEL

and unexcused punishment in violation of the Eighth Amendment of the United States Constitution

③ The actions of Nanson Defendant for refusal of medical treatment and any follow up examination and treatment and physical therapy for plaintiffs wrist, constitutes the tort of NEGLIGENCE under the laws of Washington.

④ The actions of Harding Defendant for failing to address multiple medical emergencies and medical grievances which further denied the plaintiff due process of law in violation of the Fourteenth Amendment to the United States Constitution

RELIEF REQUESTED

The plaintiff requests that the court grant the following relief:

① Issue a dictatorial judgment
8

stating that:

① the abuse of neglect upon the plaintiff by defendants Young, Brown, Harvey, Fowler, Smith, and Doe violated the rights of the plaintiff under the Eighth Amendment to the United States Constitution and constituted neglect and cruel and unusual punishment under state law

② Defendant Lally, Kitzers failure to take action to stop the abuse of prisoner violates the Eighth Amendment to the United States Constitution

③ Defendant Dawson actions in failing to provide adequate medical care for the plaintiff violated the plaintiffs rights secured under the Eighth Amendment to the United States Constitution

10 Awards compensatory Damages
in the following Amounts:

11 @ \$200,000 jointly and severally
12 against Defendants HARVEY, FOWLER,
13 BROWN, SMITH, YOUNG and DOE
14 for the neglect, mistreatment that
15 has caused physical and
16 emotional Damages resulting
17 from neglect

18 @ \$50,000 Each for Defendants
19 Lolly and Kitner for emotional
20 Damages for confiscating life
21 necessities in a retaliatory
22 fashion during plaintiffs cries
23 for help

24 @ \$200,000 for Defendants Newson
25 and Harding for denying the
26 plaintiff adequate medical
27 attention or care resulting in
28 physical injury and emotional
29 injury

30 Awards punitive Damages
31 of \$25,000 each to Defendants
32 Lolly, Kitner, Newson, Harvey
33

FOLGER, YOUNG, SMITH, HARRING
AND DOE

3) Grant such other relief as
it may appear that the
plaintiff is entitled

Respectfully Submitted,

Mark Swanson

204028089

670 W. James St

Kent Wash

98632

CATHOLIC HEALTH
INITIATIVES

St. Francis Hospital

FRANCISCAN HEALTH SYSTEM

ADMISSION RECORD

PATIENT ACCOUNT NUMBER 0419704184	ADMIT DATE 07/15/04	TIME 10:53	ROOM/ED ECU	PT. TYPE EME	SERVICE EME	PURP.	PATIENT LANGUAGE	MEDICAL RECORD (UNIT) NO. 531-72-3896	
PATIENT LEGAL NAME LAST, FIRST, MIDDLE, INITIAL SWANSON, MARK W				DATE OF BIRTH 05/03/1962	AGE 42Y	SEX M	DOB U	SOCIAL SECURITY NUMBER 531-72-3896	
PATIENT LEGAL ADDRESS UNKNOWN			CITY, STATE, ZIP FEDERAL WAY, WA 98003				HOME TELEPHONE (000)000-0000		
PATIENT ALTERNATE ADDRESS			CITY, STATE, ZIP				ALTERNATE TELEPHONE		
PATIENT EMPLOYER NAME		WORK TELEPHONE & EXTENSION		OCCUPATION		STATUS 9		RETIREMENT DATE NO	
PATIENT EMPLOYER ADDRESS				CITY, STATE, ZIP					
PATIENT COMPLAINT / ADMISSION DIAGNOSIS M H E POSSIBLE BROKEN ARM LEFT				PROCEDURE					
ADMITTING PHYSICIAN 90 EMERGENCY, PHYSICIAN EM				PRIMARY CARE PHYSICIAN					
ATTENDING PHYSICIAN 90 EMERGENCY, PHYSICIA EM				MANAGED CARE PHYSICIAN					
CONTACT INFORMATION									
1	NAME OF PERSON TO NOTIFY NONE, AVAILABLE		RELATION TO PATIENT NONE AVAILABLE		HOME TELEPHONE		WORK TELEPHONE & EXTENSION		
	ADDRESS OF CONTACT # 1				EMPLOYER NAME OF CONTACT # 1				
2	NAME OF PERSON TO NOTIFY XX, XX		RELATION TO PATIENT NONE AVAILABLE		HOME TELEPHONE		WORK TELEPHONE & EXTENSION		
GUARANTOR INFORMATION									
GUARANTOR NAME LAST, FIRST, MIDDLE SWANSON, MARK W				RELATION TO PATIENT SELF		HOME TELEPHONE (000)000-0000			
GUARANTOR ADDRESS UNKNOWN				CITY, STATE, ZIP FEDERAL WAY, WA 98003					
GUARANTOR EMPLOYER NAME		WORK TELEPHONE & EXTENSION		OCCUPATION		SOCIAL SECURITY NUMBER 531-72-3896			
GUARANTOR EMPLOYER ADDRESS				CITY, STATE, ZIP					
INSURANCE INFORMATION									
1	HOSPITAL PLAN		INSURANCE NAME		POLICY OR RECEIPT NUMBER		GROUP OR CLAIM NUMBER		
	SUBSCRIBER NAME		RELATION TO INSURED		AUTHORIZATION NUMBER		LOS	COMMENTS	
INSURANCE ADDRESS			INSURANCE CITY, STATE, ZIP			INSURANCE TELEPHONE & EXTENSION			
2	HOSPITAL PLAN		INSURANCE NAME		POLICY OR RECEIPT NUMBER		GROUP OR CLAIM NUMBER		
	SUBSCRIBER NAME		RELATION TO INSURED		AUTHORIZATION NUMBER		LOS	COMMENTS	
INSURANCE ADDRESS			INSURANCE CITY, STATE, ZIP			INSURANCE TELEPHONE & EXTENSION			
ADDITIONAL DATA									
LAST SERVICE DATE		PREVIOUS ADMISSION NAME			3-WAY #	PC P2	RELIGION UNK	RATE 6	PRE CLERK KP
ACCIDENT DATE		ON NO	ACCIDENT TIME		PLACE OF ACCIDENT		NATURE OF ACCIDENT		
ADM TYPE 1	ADM SOURCE 7	FACILITY REFERRING TO HOSPITAL			ARRIVAL MODE PT/FMLY/FRND		EXPECTED DATE OF ADMISSION		
ADVANCE DIRECTIVES 5 UNKNOWN		ADVANCE DIRECTIVES DETAIL UNKNOWN			RFP No		RFP DATE		
TRAUMA PATIENT'S NAME					SUBSCRIBER 1 DOB - SEX		SUBSCRIBER 2 DOB - SEX		

St. Francis Hospital

34515 Ninth Avenue South, Federal Way, WA 98003

Emergency Department

(253) 944-4095

Your ED Physician was: L. Sherman, MD

You were given the following discharge instruction sheets:

- Fracture @ ulna

You were given prescriptions for the following medicines:

- Amphetamine abuse- Ativan 1mg, PO, 3x/day as needed.

Additional Instructions:

- sling + AS splint - @ arm.- take x-ray to Dr. Cross's (or other Ortho office)to Ortho phone 838-8552You are to follow up with Dr. Cross in/on 3-4 days.

If you have been referred to a specialist or an outpatient service please call your family doctor for prior authorization for this referral. If you make an appointment with the referral physician above please inform their staff that you were referred by the Emergency Department.

☐ If this box is checked, you need to bring your X-rays to the referral physician at the time of your follow-up. Please call 253-944-7974 twenty-four hours prior to your follow-up visit to make arrangements to pick up your X-rays.

If your test results suggest further care is required we will call you. In all events you may obtain your results from your family doctor, or you may request a copy of your results from the release of information desk at 253-944-4150. These will be provided within a week of your request.

Emergency Physician services are independently provided by Northwest Emergency Physicians. You will receive a bill for any physician services you may have received including emergency and radiology physician services separate from the hospital bill.

We will bill your insurance, however you are responsible today for any co-pay amounts. Please check with the registration desk before you leave.

If you have a question or comment about your visit, you may call our customer service line at 1-877-258-2291.

Signature acknowledges that Patient and/or Responsible Adult has received these instructions and understands them.

Patient or Responsible Adult Signature

Date

Witnessed and/or instructed by (signature)

Date



111104

Franciscan Health System
EMERGENCY

Franciscan Health System**EMERGENCY DISCHARGE INSTRUCTIONS**

White - Patient Yellow - Medical Record

0419704281-031-72-3896
SWANSON, MARK W ECU
M 42Y 05 03 1962 P2
AO 07 15 04 EME
EMERGENCY, PHYSICIAN
EMERGENCY, PHYSIC
PCP

PATIENT NAME (LAST, FIRST, MIDDLE) Swanson, Mark	SSN 531-72-3896	DATE OF SERVICE 7-18-04
PATIENT HOME OR MAILING ADDRESS Camelot Square 3001 S. 288th Federal Way 98003	SERVICE	
DOB 5-3-62	AGE 42	SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE
PHONE	PT'S PHYSICIAN	NAME RESPONSE PARTY/RELATIONSHIP
INCIDENT STREET, CITY, ZIP 3001 S. 288th 98003	UNIT ID. NO. 182	
	RUN NO. AMR 122-7268	
	RUN NO. PSAP	

HISTORY	PAST MEDICAL HISTORY unk	MEDICATIONS unk	MEDICATIONS (CONT)	TIMES PCVD
				DISP
				ENRT
				ON SCN
			ALLERGIES unk	TRANSP
				DEST
			LAST MEAL —	AVAIL

NARRATIVE	⑤ 42 y/o pt C/O ① arm PX 2° a fight involving baseball bats. pt. is violent and is outbursting. pt. states he will not give us any information. pt. states he will answer no questions to PX. pt. is covered in gravel
	⑥ pt. found handcuffed laying down on the street with KPD & KFD on scene LOC: ANPU, speaking in full sentences. Skin: pink, warm, dry Heart: Pearl Hips/Arms Neck/Back Chest/Lungs ABD Ext: splint on ① arm
	⑦ ① arm PX
	⑧ Life on stretcher, VS, no exam due to pt combative and refuses, routine to St. Francis

FLOW SHEET	TIME	BP	PULSE	RESP	O2S	CR SAT	GCS	PAIN	RHYTHM	LEAD	NOTES & PROCEEDURES	
	1015	/	/	22							1790 - no BP or pulse taken, pt refuses	
	1030	/	/	20								
	/	/	/									
	/	/	/									
	/	/	/									
	/	/	/									
	/	/	/									
	/	/	/									
	/	/	/									
/	/	/										
MEDICAL CONTROL		CONTACT TIME	ET TUBE SIZE	DEPTH & UPS	ROUTE	BIRTH DATES		GASTRO SOUNDS		ETCO2 COLOR	# OF ATTEMPTS	PM #
DRIVER		TECH	OTHER DATA		COMPLETED BY		ID NUMBER					
		1790	1245		Jeremy Wilson							
I HEREBY CERTIFY AMERICAN MEDICAL RESPONSE TRANSFERRED CARE AND GAVE A VERBAL REPORT CONCERNING THE ABOVE NAMED PATIENT.												
ST Francis		Signature		DATE		TIME						

9928080

HOSPITAL COPY

[illegible]

111700

(B-14/04)

† CATHOLIC HEALTH INITIATIVES Franciscan Health System		
St. Clare Hospital Lakewood, Washington	St. Francis Hospital Federal Way, Washington	St. Joseph Medical Center Tacoma, Washington

EMERGENCY SERVICES CARE RECORD

PATIENT INFORMATION

2419704184 SFH 531-72-3896
SWANSON, MARK W ECU
M 42Y 03 03 1962 P2
AD 07 15 04 EME
EMERGENCY, PHYSICIA
EMERGENCY, PHYSIC
PCP

White - Chart **Canary - Patient Access**

FILED ENTERED
 LODGED RECEIVED

FEB 14 2005 ZG

AT SEATTLE
 CLERK U.S. DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 DEPU

05-CV-00199-ORD

UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 AT SEATTLE

MARK WAYNE SWANSON,

Plaintiff,

v.

KING COUNTY CORRECTIONAL
 FACILITY,

Defendant.

Case No. C05-199-RSL

ORDER GRANTING
 APPLICATION TO PROCEED *IN*
FORMA PAUPERIS AND
 DIRECTING INSTITUTION TO
 CALCULATE, COLLECT, AND
 FORWARD PAYMENTS

The Court, having reviewed plaintiff's application to proceed *in forma pauperis*, does hereby find and ORDER.

(1) Plaintiff's declaration indicates he is unable to afford the court's filing fee or give security therefor. Accordingly, plaintiff's application to proceed as a pauper is **GRANTED**. As set forth below, an initial partial filing fee will be collected, and thereafter each month plaintiff is required to pay 20 percent of the preceding month's income credited to his account until the full amount of the filing fee is satisfied.

(2) Pursuant to 28 U.S.C. § 1915 and plaintiff's approved application to proceed *in forma pauperis*, the agency having custody of the above named plaintiff is directed to calculate an initial partial filing fee equal to 20 percent of the greater of the average monthly deposits to the prisoner's account or the average monthly balance in the prisoner's account for the 6-month period immediately preceding the date of this Order. The initial partial filing fee should be forwarded to the court clerk as soon as practicable.

ORDER
 Page - 1

ORDER
 Page - 2

1 Subsequently, if the prisoner's account exceeds \$10.00, each month the Financial Administrator
2 for the King County Regional Justice Center is directed to collect and forward payments equal to 20
3 percent of the prisoner's preceding month's income credited to the prisoner's account. In the event that
4 the monthly payment would reduce the prisoner's account below \$10.00, the Financial Administrator
5 should collect and forward only that amount which would reduce the prisoner's account to the \$10.00
6 level. Please note that this \$10.00 limit does not apply to the initial partial filing fee described above.
7 Finally, the monthly payments should be collected and forwarded to the court until the entire filing fee
8 (\$150.00) for this matter has been paid.

9 (3) The Clerk is directed to send plaintiff a copy of this Order and the General Order, and a copy
10 of this King County Regional Justice Center's Financial Administrator.

11 DATED this 11 day of February, 2005.

12
13 
14 MONICA J. BENTON
15 United States Magistrate Judge
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Other Orders/Judgments

2:05-cv-00199-RSL-MJB Swanson v. King County Correctional Facility

U.S. District Court

Western District of Washington

Notice of Electronic Filing

The following transaction was received from ZG, entered on 2/14/2005 at 3:46 PM PST and filed on 2/14/2005

Case Name: Swanson v. King County Correctional Facility

Case Number: 2:05-cv-199

Filer:

Document Number: 3

Docket Text:

ORDER GRANTING APPLICATION TO PROCEED IN FORMA PAUPERIS AND DIRECTING INSTITUTION TO CALCULATE, COLLECT, AND FORWARD PAYMENTS by Judge Monica J. Benton (cc KCRJC Fin Off.) (ZG,)

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1035929271 [Date=2/14/2005] [FileNumber=1112056-0]
][850d6bd0452977702571bfe92323ff75e54cff204d05b4ba9cc3cd1a16449efb4eb
3cbd1184ec0b6ba3927a11863c88bf08bbd7c1fe6dc9f510b3b9a39a20751]]

2:05-cv-199 Notice will be electronically mailed to:

2:05-cv-199 Notice will be delivered by other means to:

Mark Wayne Swanson
204028089
KING COUNTY RJC
620 WEST JAMES ST
KENT, WA 98032

FILED ENTERED
LOGGED RECEIVED

MAR 21 2005 ZG

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MARK WAYNE SWANSON,

Plaintiff,

v.

KING COUNTY CORRECTIONAL
FACILITY

Defendant.

CASE NO. C05-0199L

ORDER DECLINING TO SERVE
COMPLAINT AND GRANTING
LEAVE TO AMEND

Plaintiff is currently incarcerated at the King County Regional Justice Center. He has filed a civil rights complaint pursuant to 42 U.S.C. §1983. The Court, having reviewed the complaint and record, does hereby find and ORDER:

(1) In his complaint, Plaintiff alleges that his rights were violated because he was denied treatment for his injury. Plaintiff identifies King County Correctional Facility ("KCCF") as the defendant.

(2) Plaintiff is advised that in order to maintain a cause of action under 42 U.S.C. §1983, he must show (a) that he suffered a violation of rights protected by the Constitution or created by federal statute, and (b) that the violation was proximately caused by a person acting under color of federal law. See Crumpton v. Gates, 947 F.2d 1418, 1420 (9th Cir. 1991). To satisfy the second

ORDER DECLINING TO SERVE
COMPLAINT AND GRANTING
LEAVE TO AMEND - 1

1 prong, plaintiff must allege facts showing how individually named defendants caused or personally
2 participated in causing the harm alleged in the complaint. See Arnold v. IBM, 637 F.2d 1350, 1355
3 (9th Cir. 1981).

4 (3) Plaintiff is further advised that a local government unit, like the KCCF, may not be held
5 responsible for the acts of its employees under a respondeat superior theory of liability. See, e.g.,
6 Collins v. City of Harker Heights, 503 U.S. 115, 121 (1992). Rather, Plaintiff, in order to sue the
7 KCCF, must allege facts showing that any constitutional deprivation he suffered was the result of a
8 "custom or policy" of KCCF. See, e.g., Ortiz v. Washington County, 88 F.3d 804, 811 (9th Cir.
9 1996).

10 (4) In light of the above rules governing §1983 actions, plaintiff's complaint is deficient.
11 Therefore, the Court declines to order that the complaint be served on defendant unless and until
12 Plaintiff corrects this deficiency. Plaintiff has not provided any facts showing that Plaintiff's alleged
13 constitutional deprivation was the result of a "custom or policy" of KCCF.


14 (5) Plaintiff may file an amended complaint curing the above-noted deficiency within thirty
15 days of the date on which this Order is signed. The amended complaint must carry the same case
16 number as this one. If no amended complaint is timely filed, the Court will recommend that
17 this matter be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) for failure to state claim
18 upon which relief can be granted.

19 Plaintiff is advised that an amended pleading operates as a *complete* substitute for an original
20 pleading. See Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992) (citing Hal Roach Studios,
21 Inc. v. Richard Feiner & Co., Inc., 896 F.2d 1542, 1546 (9th Cir. 1990) (as amended), cert. denied,
22 506 U.S. 915 (1992)). Thus, if Plaintiff chooses to file an amended complaint, the Court will not
23 consider his original Complaint.

24
25 ORDER DECLINING TO SERVE
26 COMPLAINT AND GRANTING
LEAVE TO AMEND - 2

1 (6) The Clerk is directed to send Plaintiff the appropriate forms so that he may file an
2 amended complaint. The Clerk is further directed to send copies of this Order, and of the General
3 Order, to Plaintiff and to the Honorable Robert S. Lasnik.

4 DATED this 18 day of February, 2005.

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7 MONICA J. BENTON
8 United States Magistrate Judge
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25 ORDER DECLINING TO SERVE
26 COMPLAINT AND GRANTING
LEAVE TO AMEND - 3

Other Orders/Judgments2:05-cv-00199-RSL-MJB Swanson v. King County Correctional Facility**U.S. District Court****Western District of Washington****Notice of Electronic Filing**

The following transaction was received from ZG, entered on 3/21/2005 at 3:02 PM PST and filed on 3/21/2005

Case Name: Swanson v. King County Correctional Facility**Case Number:** 2:05-cv-199**Filer:****Document Number:** 5**Docket Text:**

ORDER DECLINING TO SERVE COMPLAINT AND GRANTING LEAVE TO AMEND re [4]
Complaint filed by Mark Wayne Swanson, Amended complaint due by 4/18/2005 by Judge Monica J. Benton. 1983 forms and General Order mailed to Pltf. (ZG,)

The following document(s) are associated with this transaction:

Document description:Main Document**Original filename:**n/a**Electronic document Stamp:**

[STAMP dcecfStamp_ID=1035929271 [Date=3/21/2005] [FileNumber=1154821-0]
] [6b0648cd7d6474b309cec1e35d246a253b09569dccc79eafd3f30447ec905372b4
2a2bc2eb5706227b2fa9cb250444678140a4da6f7b99f07a291542f9f9598]]

2:05-cv-199 Notice will be electronically mailed to:**2:05-cv-199 Notice will be delivered by other means to:**

Mark Wayne Swanson
204028089
KING COUNTY RJC
620 WEST JAMES ST
KENT, WA 98032

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

In Re:

SUMMARY OF PROCEDURAL RULES

GENERAL ORDER

(for distribution in cases where plaintiff/
petitioner is proceeding *pro se*)

The following paragraphs summarize certain local rules of the Court and other procedural matters. It is intended for the benefit of plaintiff/petitioners proceeding *pro se*.

It is hereby ORDERED that:

(I) Service of Summons and Complaint

Except in instances where the Court has arranged for service to be effected on plaintiff's behalf, plaintiff must serve the summons and complaint on each defendant/respondent within four months after the filing of the complaint, in accordance with Rule 4 of the Federal Rules of Civil Procedure. If service has not been made in that time, and good cause is not shown for that failure, the action can be dismissed without prejudice.

1 (2) Filing and Service of Other Court Documents

2 All original documents and papers submitted for consideration by the Court in this case, and a
3 duplicate of all such papers, are to be filed with the Clerk of this Court. The originals and copies of
4 all such papers shall indicate in the upper right-hand corner the name of the District Judge or
5 Magistrate Judge to whom the copies are to be delivered. The papers shall be accompanied by proof
6 that such documents have been served upon counsel for the opposing party or upon any party acting
7 *pro se*.
8

9 Service is accomplished by mailing a true and correct copy of the document to each
10 defendant/respondent's counsel. The proof of service shall show the day and manner of service and
11 may be made by certificate or acknowledgment on the document itself, or by a separate filing. If a
12 party fails to comply with this Order, the Court will disregard the submitted document.

13 (3) Motions

14 Any request for court action shall be set forth in a motion, properly filed and served. Pursuant
15 to Local Rule CR 7(b)(2002), any argument being offered in support of a motion shall be submitted
16 as a part of the motion itself and not in a separate document. The motion shall include in its caption
17 (immediately below the title of the motion) a designation of the date the motion is to be noted for
18 consideration upon the court's motion calendar.
19

20 Stipulated and agreed motions, motions to file over-length motions or briefs, motions for
21 reconsideration, joint submissions pursuant to the option procedure established in Local Rule CR
22 37(a)(2)(B), and motions for default judgment where the opposing party has not appeared, shall be
23 noted for consideration on the day they are filed. See Local Rule CR 7(d)(1)(2002). All other non-
24 dispositive motions shall be noted for consideration no earlier than the third Friday after filing and
25

1 service of the motion. All dispositive motions shall be noted for consideration no earlier than the
2 fourth Friday after filing and service of the motion. See Local Rule CR 7(d)(3)(2002).

3 All briefs and affidavits in opposition to any dispositive motion, and to any non-dispositive
4 motion not specifically identified in the opening sentence of the preceding paragraph, shall be filed
5 and served not later than 4:30 p.m. on the Monday immediately preceding the date designated for
6 consideration of the motion. If a party fails to file and serve timely opposition to a motion, the court
7 may deem any opposition to be without merit.

8
9 The party making the motion may file and serve, not later than 4:30 p.m. on the judicial day
10 immediately preceding the date designated for consideration of the motion, a response to the opposing
11 party's briefs and affidavits. All motion papers must be filed and served according to paragraph (2)
12 above.

13 (4) Summary Judgment Motions

14 If defendant/respondent files a motion for summary judgement, plaintiff/petitioner is advised,
15 pursuant to *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998), and Federal Rule of Civil Procedure 56,
16 that he or she has a right to file counter-affidavits or other responsive evidentiary materials in
17 opposition to defendant/respondent's motion for summary judgment and that his or her failure to file
18 such materials may result in the entry of summary judgment against him or her. If the motion for
19 summary judgment is granted, the plaintiff/petitioner is advised that his/her case may be over. Thus,
20 if plaintiff/petitioner fails to file opposing counter-affidavits or other evidence,
21 defendant/respondent's evidence might be taken as truth, and final judgment may be entered against
22 plaintiff/petitioner without a trial. See Local Rule CR 7 (b)(2).
23
24
25
26

1 (5) Direct Contact with Judge Prohibited

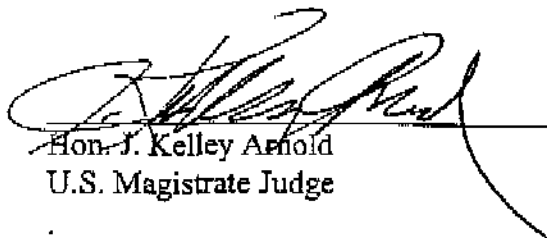
2 You are not to communicate directly with the District Judge or the Magistrate Judge with
3 regard to this case. All relevant information and papers are to be directed to the Clerk, with copies
4 sent to opposing counsel.

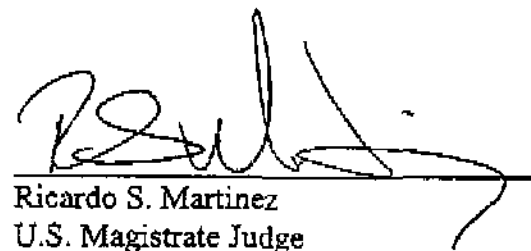
5 (6) Change of Address

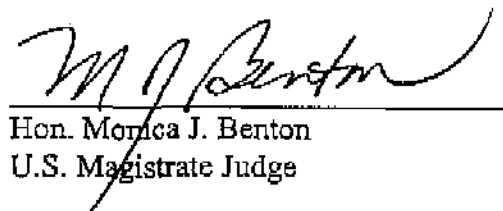
6 If you are proceeding pro se (without an attorney), you must notify the Clerk and opposing
7 parties promptly if you change your address. If you fail to do so, your case may be dismissed. See
8 Local Rule CR 41(b)(2).
9

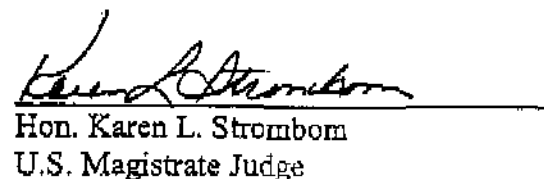
10 (7) Lack of Action

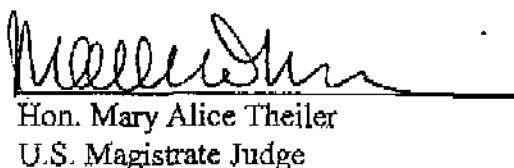
11 All cases that have been pending in this Court for more than one year without any proceeding
12 of record having been taken may be dismissed by the Court on its own motion for lack of prosecution.
13 See Local Rule CR 41(b)(1).
14

15 
16 Hon. J. Kelley Arnold
17 U.S. Magistrate Judge
18

19 
20 Ricardo S. Martinez
21 U.S. Magistrate Judge
22

23 
24 Hon. Monica J. Benton
25 U.S. Magistrate Judge
26


Hon. Karen L. Strombom
U.S. Magistrate Judge


Hon. Mary Alice Theiler
U.S. Magistrate Judge

They Day was going good, It was quite all Day Long. It was about 12:00pm and Mark Swanson came to the hole. He did not look ok, so the staff member did there PROCEDURE and put him in #30 house. Then it was about 12:45 He ask to see classification, so the person was in his office to come and see him.

I Don't know want happen when they talk, But when Classification came out he said, I don't want him here. Then Mark Swanson ask to see the Nurse and the staff member said No, then he start barging on his Door (It was around 13:00 hour). He didn't stop Barging intell about 16:30 hour when he got his tray from the trusty, so Mark ask to see the Nurse again and staff member so No, then the trusty start to pick up the Tray and when they got to #30 house He did something and he did not give his tray to the Trusty (these was about 16:45-17:00) Mark ask repeat again and again to see the Nurse, they said No and Mark Swanson start to barging on his Door again. It was about 17:30-18:00 hour Then the sergeant came in with 4 member and they went right to Mark Swanson house.

They first start to talk to him in front of his Door. Then it was about 20-25 min later, Mark Swanson open and they got his tray from him. I do not know what they are talk about. The the Sergeant was talking to Furrow about him and he left. (It was about 19:00-19:45) The staff member was testing Mark Swanson when he ask to get some toilet paper. They did not give him it so him Intell a different staff member did. It was about 20:00-20:30 hour the Medical can. Then the medical person talk to Mark Swanson, they talk for about 10 min and she left. Mark was quit for the rest of the night.

It was about 5:30 hour and Mark Swanson got up to get his tray but it was not a tray it was a clam shell. He was talk to the night staff about something (I think it was about the clam shell). It was quite all morning. It was about 11:30-12:00 hours Mark Swanson had a victory.

I am in my house #163 visiting room was right next to my room. So Mark went to the visiting room, it was about 15 min Mark Swanson was finish with his vest, so he when to the Door and ask to open it. After about 3-5 min 3 staff member came, Mark still ask to come out of the visiting room.

Then a lot of staff member a 2 Sargent came. All of them went right to the visiting room and they start to talk to him. One of the staff member ask him to put his hand behind his Back and He said I can't put them behind my back so Mr. Brown pull 2 hand coft together. The staff member is still talk to him and final in was about 12:30, the staff member let him out of the visiting room, He had his arm cross in front of him and they scort him Back to his room. Then that was all over there was No Barging. (It was about 13:00-14:00 hours). The sargent came with 9 member and they bolt right to Mark Swanson room. They open his Door and they rush in there and take all of his staff. He was sitting on his stool and the sargent talk to him (It was about 14:00-14:15). It was about 10 min later they brought him a plastic Blanket, Now he was Lying at Farrow and all of the rest of the staff member. Then Mark Swanson requested to see the sargent (It was about 21:00 hours). The sargent talk to mark for about 15 to 30 min. The sargent gave his Blacked Back to him.

It was quite for the rest of the night
Finally the nurse came to see him
and they gave him a bang right arm.
It is all I know about Mark Swanson
when he came in North East

Joshua Folk
Joshua Folk



American Civil Liberties Union of Washington

December 7, 2004

President
Timothy Kaufman-Osborn

Executive Director
Kathleen Taylor

**Legal Program
Director**
Julya Hampton

Legal Program Associate
Eric Nygren

Mark Swanson
King County Correctional Facility
620 W James St
Kent WA 98032

Dear Mr. Swanson:

The ACLU of Washington has received your completed Ineffective Assistance of Counsel Survey. Thank you for taking the time to complete the survey and return it to us.

Access to effective criminal representation is an issue of continuing concern to the ACLU-WA. The information you have provided will help us in assessing other complaints concerning representation in courts throughout Washington, and will be added to the data we have collected from other defendants represented by appointed attorneys in King County. The ACLU is working with other organizations to address many of the systemic problems that exist in our state with respect to local indigent defense services, and your details will help us to understand the problems faced by indigent defendants.

While we recognize there are deficiencies in the provision of adequate representation in many criminal cases, our limited resources do not allow us to provide direct assistance in most cases. After reviewing your completed survey, we have determined that we cannot provide you with direct assistance in addressing your complaint. *Please understand that our inability to assist you does not minimize the seriousness of your complaint.* Even though we cannot help you individually at this time, the information you have provided may help develop the facts necessary for broad legal action in the future.

Thank you again for taking the time to submit the survey to the ACLU.

Sincerely,

Eric S. Nygren
Legal Program Associate



President
Timothy Kaufman-Osborn

Executive Director
Kathleen Taylor

**Legal Program
Director**
Julya Hampton

Legal Program Associate
Eric Nygren

American Civil Liberties Union of Washington

November 16, 2004

Mark W. Swanson
King County Regional Justice Center
620 W James St
Kent WA 98032

Dear Mr. Swanson:

The ACLU of Washington has received your completed Medical Care Survey. Thank you for taking the time to provide details about the medical treatment you received at the King County Regional Justice Center.

Inmate access to appropriate medical treatment is an issue of continuing concern to the ACLU-WA. The information you have provided will help us in assessing other complaints concerning medical care at facilities throughout Washington, and will be added to the data we have collected from other inmates confined at the RJC.

While we recognize there are deficiencies in the provision of medical care in many jails and prisons, our limited resources do not allow us to provide assistance in most cases. After reviewing your completed survey, we have determined that we cannot provide you with direct assistance in addressing your complaint. Please understand that our inability to assist you does not minimize the seriousness of your complaint. Even though we cannot help you individually at this time, the information you have provided may help develop the facts necessary for broad legal action in the future.

Thank you again for taking the time to submit the medical survey to the ACLU.

Sincerely,

Eric S. Nygren
Legal Program Associate

P.O. BOX 105411
ATLANTA, GA 30348
RETURN SERVICE REQUESTED



October 25, 2004

00001498 1678

1614221678 FACMED
MARK WAYNE SWANSON
500 5TH
SEATTLE, WA 98104-2332



RE: Provider: HARBORVIEW MEDICAL CENTER
Patient Name: MARK WAYNE SWANSON
Patient Account: 2410151
Account Balance: \$311.00

Thank you for choosing HARBORVIEW MEDICAL CENTER for your health care needs.

The above balance is due on your account. An envelope is enclosed for your convenience in remitting. If you would like to charge the balance to your credit card, fill out the charge authorization form below and return it in the envelope provided.

If you have questions feel free to call us at (866)298-2825. We will be happy to assist you.

\$1678 D146

(Please return this portion with your payment)

Provider: HARBORVIEW MEDICAL CENTER
Guarantor Name: MARK WAYNE SWANSON
Patient Name: MARK WAYNE SWANSON
Patient Account: 2410151
Account Balance: \$311.00



Charge Authorization

Cardholder's Name: _____
Card #: _____
Expiration Date: _____ Amount: \$ _____
X _____
Cardholder Signature _____

HARBORVIEW MEDICAL CENTER
PATIENT FINANCIAL SERVICES
PO BOX 34001
SEATTLE, WA 98124-1001



Please Denote Change of Address:
Address Correction: _____
City: _____ State: _____ Zip: _____
Telephone: _____ SSN: _____
Employer: _____



American Civil Liberties Union of Washington

October 20, 2004

Mark Wayne Swanson
620 W James St
Kent WA 98032

President
Timothy Kaufman-Osborn

Executive Director
Kathleen Taylor

Legal Program Director
Julia Hampton

Legal Program Associate
Eric Nygren

Dear Mr. Swanson:

I am writing in response to your letter regarding your situation at the Regional Justice Center.

The treatment of inmates and the conditions in Washington state prisons and jails are of continuing concern to the ACLU-WA. Enclosed please find an ACLU-WA Jail Medical Care Survey for you to complete. This survey will give us detailed information about the medical care provided by the jail staff. Also enclosed are two medical release forms for you to sign. *Give one signed copy to the jail medical unit, and return one signed copy to our office.* Please do this promptly; we may be contacting the jail to discuss request information or medical records.

Please understand that completion of these forms does not indicate that we will be able to provide you with assistance. However, it will allow us to determine whether or not your treatment at the jail needs to be addressed with jail officials and medical staff. If you have any additional paperwork regarding your medical treatment, such as kites and grievances and responses you have received, please forward copies with your completed survey and release. (Please do not send original documents. We are unable to store original documents or make copies for you.)

It is important to document your complaints through the jail grievance system as well as notifying the ACLU. The ACLU may consider filing litigation if conditions result in the systematic denial of adequate medical care, and we can be most effective through litigation when we find a pattern of constitutional violations in a particular institution. Accordingly, we have a system of recording each complaint based on the institution involved and the nature of the grievance. So even though we may not be able to help you individually at this time, the information you provide may help develop the facts necessary for broad legal action in the future.

Thank you for contacting the ACLU. I look forward to receiving your completed survey and authorization soon.

Sincerely,

Eric S. Nygren
Legal Program Associate
Enclosures